IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

W.P. No. 546 of 2003 (S/B)

Pooran Singh …… Petitioner

Versus

State of U.P. & others …… Respondents

Mr. Kailash Tewari, learned Advocate for the petitioner.
Mr. K.P. Upadhyaya, learned Standing Counsel for the State

Hon. P.C. Verma, A.C.J.
Hon. Rajesh Tandon, J.

This writ petition has been filed by the petitioner challenging the judgment of the State Public Service Tribunal dated 29.8.1997 passed in claim petition No. 423/F/V/1990; Pooran Singh Vs State of U.P. & others, by which, the claim petition was dismissed.

The said claim petition was filed by the petitioner challenging the order of dismissal dated 14.4.87.

The petitioner was appointed as a Constable in the year 1980. The petitioner went on 10 days casual leave due to illness of his mother on 22.3.86. He again sent an application for leave on 8.7.86. The petitioner was served with a charge-sheet on 24.12.86 on the charges of his absence from duty. By order dated 3.9.86, he was placed under suspension and thereafter, after the receipt of the enquiry report, he was dismissed from service on 14.4.87.

Learned counsel for the petitioner did not challenged the judgment of the Public Service Tribunal on any other ground except that the punishment awarded is too harsh as the punishment of dismissal could not have been awarded for over-stay of about 8 months despite the explanation given for the absence. It could have been converted into leave without pay or some minor punishment could have been awarded.

Learned counsel for the State submitted that since the petitioner was in a Police discipline, considering the nature of duties of the Police Force, the punishment awarded cannot be said to be harsh.

The petitioner has submitted, as noticed by the Tribunal, the explanation for absence on account of illness of his mother. However, he did not participate with the Departmental proceedings, therefore, proceedings were held ex-parte and the enquiry report was submitted.

Having regard to the facts and circumstances of the case, we feel that the order of dismissal is too harsh. Therefore, the order of dismissal is set aside. Government is directed to censure his conduct and stop his two increments. The petitioner shall be reinstated in service, but no back wages shall be paid to him.

With the aforesaid observations, writ petition is disposed of. No order as to costs.

(Rajesh Tandon, J.) **(P.C.Verma, A.C.J.)**

Dt. 21.05.2004.
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